

IN THE HIGH COURT OF JUDICATURE AT PATNA
Criminal Appeal (SJ) No.120 of 2015

Arising Out of PS.Case No. -79 Year- 2006 Thana -SIWAN COMPLAINT CASE District- SIWAN

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Dewanti Devi wife of Subhash Yadav, resident of village- Khagani, P.S.-
Gorea Kothi, District- Siwan, at present of village- Bhopatpur, P.S.- Jamo,
District : Siwan.

.... Appellant/s

Versus

1. The State of Bihar
2. Subhash Yadav son of Heeralal Yadav, resident of village; Khagani, P.S.-
Gorea Kothi, District-Siwan.

.... Respondent/s

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Appearance :

For the Appellant/s : Mr. Ajay Kumar Pandey, Advocate
For the Respondent/s : Mr. Abhimanyu Sharma, APP

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CORAM: HONOURABLE MR. JUSTICE ASHWANI KUMAR SINGH
ORAL ORDER

6 20-07-2015 This appeal under the proviso to section 372 of the Code of Criminal Procedure (for short “the Code”) is directed against the judgment and order dated 19.11.2014 passed by the learned *Ad hoc* Additional District and Sessions Judge, Siwan in Cr. Appeal No.27 of 2013, whereby the judgment and order dated 28.5.2013 passed by the learned Sub Divisional Judicial Magistrate, Siwan in Complaint Case No.79 of 2006 corresponding to Trial No.1219 of 2013, whereby the respondent no.2 being found guilty under section 498A of the Indian Penal Code was sentenced to undergo rigorous imprisonment for three years and to pay a fine of Rs.500/-, has been set aside.



2. At the outset, it has been pointed out by Mr. Abhimanyu Sharma, learned Additional Public Prosecutor that the appeal is not maintainable in view of the law laid down by a Division Bench of this Court in *Jainath Prasad vs. The State of Bihar and another* [2015(2) PLJR 798]. In the case of Jainath Prasad (supra) a Division Bench of this Court has held that the victim has no right to file an appeal against an order of acquittal passed by the appellate court. The only remedy available to the victim, under such circumstance, would be by way of revision under sections 397 and 401 of the Code and such challenge would lie only within the parameters permissible under the revisional provisions.

3. Learned counsel for the appellant concedes the fact that in view of the aforesaid Divisional Bench decision of this Court, the appeal is not maintainable.

4. In that view of the matter, the instant appeal is dismissed as not maintainable. The appellant would be at liberty to challenge the impugned judgment by filing appropriate revision application under sections 397 and 401 of the Code.

5. At this stage, learned counsel for the appellant has submitted that the appellant is a poor lady and it would be difficult

for her to obtain certified copy of the judgment annexed to this memo of appeal.

6. Regard being had to the facts and circumstances of the case, the Registry is directed that the certified copy of the judgments which have been filed in the present appeal may be returned to the learned counsel for the appellant after retaining photo copies of the same on record.

(Ashwani Kumar Singh, J)

Md.S./-

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